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8 **UNITED STATES DISTRICT COURT**  
9 **EASTERN DISTRICT OF CALIFORNIA**  
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11 MARVIN HARRIS, ) Case No.: 1: 23-cv-1051 JLT SAB (PC)  
12 Plaintiff, )  
13 v. ) ORDER ADOPTING THE FINDINGS AND  
14 BYAN D. PHILLIPS, et al., ) RECOMMENDATIONS DENYING PLAINTIFF'S  
15 Defendants. ) MOTION TO PROCEED IN FORMA PAUPERIS  
16 ) AND DIRECTING PLAINTIFF TO PAY THE  
17 ) FILING FEE IN FULL WITHIN 30 DAYS  
18 ) (Docs. 2, 12)  
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29 Marvin Harris moved to proceed *in forma pauperis* when he initiated this action, in which he  
30 seeks to hold the defendants liable for violations of his civil rights. (Doc. 2.) The magistrate judge  
31 found Plaintiff is subject to the three-strikes provision of 28 U.S.C. § 1915(g), because he had more  
32 than three cases dismissed as frivolous or for failure to state a claim prior to filing the complaint in this  
33 action. (Doc. 12 at 2.) In addition, the magistrate judge found Plaintiff did not satisfy the imminent  
34 danger exception, because “Plaintiff makes no allegation of imminent danger of serious physical injury  
35 at the time he filed his complaint.” (*Id.* at 3.) Therefore, the magistrate judge found Plaintiff was not  
36 entitled to proceed *in forma pauperis* in this action, and recommended his motion be denied. (*Id.*)

37 Plaintiff filed objections to the Findings and Recommendations with a Notice of Appeal, which  
38 included the Findings and Recommendations as an attachment. (*See* Doc. 14; *see also id.* at 6-8.) The  
39 Ninth Circuit dismissed Plaintiff’s appeal, and indicated its order of dismissal constituted its mandate,  
40 on March 28, 2024. (Doc. 18 at 1.) Importantly, a review of the Objections/ Notice of Appeal

1 establishes that Plaintiff does not dispute the determination that he is subject to the three-strike rule of  
2 28 U.S.C. § 1915(g) or show that he was imminent danger of serious physical injury.

3 According to 28 U.S.C. § 636(b)(1)(C), this Court performed a *de novo* review of this case.  
4 Having carefully reviewed the matter, the Court concludes the Findings and Recommendations are  
5 supported by the record and proper analysis. Thus, the Court **ORDERS**:

- 6 1. The Findings and Recommendations issued July 17, 2023 (Doc. 12) are **ADOPTED**.
- 7 2. Plaintiff's motion to proceed *in forma pauperis* (Doc. 2) is **DENIED**.
- 8 3. Plaintiff **SHALL** pay the \$405 filing fee in full for this action within 30 days of the date  
9 of service of this order.

10 **Plaintiff's is advised failure to comply with this order will result in dismissal of this action.**

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12 IT IS SO ORDERED.

13 Dated: **June 5, 2024**

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UNITED STATES DISTRICT JUDGE